

**UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF NEW YORK**

**PLAN FOR THE MANAGEMENT
OF UNITED STATES COURT REPORTERS**

GENERAL ORDER #17



December 3, 1993

Court Reporter Management Plan

A. Introduction: The court desires through this Plan to achieve effective management of the official court reporting services (court reporters and electronic sound recording operators hereinafter referred to as ECR operators). By designation of the Chief Judge, the Clerk of court (Clerk) is fully authorized administratively to supervise and control the combined court reporting operations of the court.

The Plan is designed to :

1. obtain effective management of the court reporting operations by proper supervision and control;
2. make clear that the court reporters and ECR operators serve the court en banc and not a particular judge;
3. obtain the most effective utilization of both the services of the court reporters and ECR operators by equitable distribution of the workload;
4. avoid backlogs of transcript and assure prompt delivery of transcripts;
5. assure appointment and retention of fully-qualified court reporters, and dismissal of court reporters and ECR operators who are no longer performing in a satisfactory manner;
6. minimize the use of contract court reporters and utilize electronic sound recording for cost efficiency;
7. promote competency, loyalty, and dignity among the court reporting staff; and
8. enhance the efficient operation of the court and further its mission.

B. Appointment and Dismissal of Court Reporters:

The court is presently authorized five (5) official court reporters, one for each active judgeship and the Clerk also shall provide ECR operator(s) for judges who wish to use electronic sound recording for court proceedings.

The court shall appoint and dismiss court reporters, and in connection therewith, the court shall consider the recommendations of the Clerk. Court reporters shall be appointed in accordance with the provisions of the Court Reporter Act, 28 U.S.C. Section 753, and the Policies and Procedures of the Administrative Office of the United States Courts and the Judicial Conference of the United States. Only fully-qualified reporters shall be appointed as court reporters of this court. All newly-appointed court reporters shall serve a probationary period as set forth in Section 5.2 of the Personnel, Policy and Orientation Manual. Court reporters who do not perform in a competent and satisfactory manner shall be subject to dismissal.

C. Duties of the Clerk:

1. The duties and responsibilities of the Clerk or the Clerk's designee shall include, but shall not be limited to:

a. assignment and reassignment of official court reporters and ECR operators for the purpose of distributing fairly and equitably the workload of all reporters and assuring the best utilization of all reporting personnel, subject to the provisions of paragraph D;

b. reviewing transcripts to assure full compliance with format requirements of the Administrative Office of the United States Courts and the Judicial Conference of the United States; (see attachment 1)

c. reviewing transcript billing to assure that authorized transcript rates are charged and that billing is in the proper form; this will be accomplished by the use of an annual sampling of transcript rates for various case reviews.

d. determining compliance by all court reporters with the rules and regulations concerning the recording and filing of pleas and sentences;

e. reviewing the time records of the court reporters to assure proper maintenance and accuracy. The senior court reporter will forward a copy of the court reporters quarterly reports to the Clerk.

f. reviewing the records of the court reporters to assure the timely filing of all reports required by the Administrative Office of the United States Courts and the Judicial Conference of the United States;

g. requiring the court reporters to submit those reports mandated by the Judicial Conference to the Clerk or the Clerk's designee for review and signature on a timely basis;

h. filing with the court, at least annually, a report concerning court reporting operations; and

i. performing such other duties relating to court reporters as shall be directed by the court.

D. Assignment of Court Reporting Staff:

1. Court reporters serve the court en banc; therefore, it is within the discretion of the Clerk or the Clerk's designee to reassign court reporters to active judges, senior judges, visiting district judges, magistrate judges and bankruptcy judges in a manner designed to equally distribute the total court reporting workload efficiently and cost effectively. In court locations with multiple judicial officers, the court reporters should be rotated weekly or by trial to equalize the workload and prevent the backlog of outstanding transcript requests. To achieve this balance it will be necessary for the quarterly workload reports to be reviewed by the Clerk or the Clerk's designee. Proper rotation of the court reporter staff will reduce the need for additional contract reporters as it equalizes the case loads and minimize costs.

2. Daily copy cases will be routinely rotated among all court reporters in order to balance the assignment of these cases.

3. The use of contract or per-diem reporters shall be kept to a minimum. The use of electronic sound recording shall be expanded as much as possible to augment court reporting resources.

4. Court reporters shall perform a regular work week from 8:30 A.M. to 5:00 P.M. Monday through Friday of each week. In this regard court reporters shall adhere to the policy as set forth in Section 2.00 of the Personnel, Policy and Orientation Manual.

5. Travel of court reporters and ECR operators shall be kept to a minimum. Where possible, official proceedings held at the offices in Albany, Syracuse & Binghamton shall be recorded by court reporters whose official duty station coincides with the location of the proceedings.

a) Court proceedings in Utica, Watertown, Auburn, Malone, or other places which are designated by the court shall be recorded by official reporters under the following conditions:

i) Due to the geographic nature of the Northern District court reporters are often called upon to cover court locations where there is no official court reporter stationed, or there are more judicial officers present at a court location than official court reporters. When a proceeding is scheduled which would require that an official court reporter travel, consideration should be given to the cost of mileage and per-diem for the official reporter to travel to the court location.

ii) If the proceeding can be covered by a qualified contract or pre-diem reporter for less than it would cost the government for the official reporter to travel, the official reporter shall secure the services of a contract or per-diem reporter for the proceeding. The justification for the hiring of a contract or per-diem reporter shall be recorded on the approved form (attachment 2) and submitted to the Clerk for payment.

6. Communication between the court reporters and the courtroom deputies is essential in order to properly utilize the court reporter resources. In this regard communication between the court reporters and courtroom deputies should occur on a daily basis as the court schedule often changes daily. Proper communication will enable the court to minimize the use of contract and per-diem reporter services when official reporters are available to cover proceedings due to cancellations in a judges calendar.

E. Transcripts:

1. The Format: All official court reporters have been furnished herein format requirements adopted by the Judicial Conference. The Clerk or the Clerk's designee will monitor transcripts to ensure compliance with format standards (attachment 1). Contract or per-diem reporters shall be provided format information by the official court reporter who secured the services of the contract or per-diem reporter.

2. Arrangements for orders of transcript(s) shall be made through the court reporters. A CJA 24 - Authorization and Voucher for Payment of Transcript shall also be used when the transcript is requested by a defendant or defendant's counsel under the Criminal Justice Act. Orders for transcript produced by ECR operators shall be accomplished through the use of a Transcript Order Form and orders for tapes produced by ECR operators shall be accomplished by means of a Tape Order form (attachment 3).

3. First priority shall be given to the production of transcript which involves incarcerated defendants, especially those cases which challenge the imposition of the death penalty, and to cases on appeal. Transcripts in civil cases generally should be prepared in the order in which requests for them are received. Preparation of criminal transcripts generally shall take precedence over preparation of civil transcripts.

4. Transcript for criminal appeals which challenge sentences imposed under the sentencing guidelines issued by the U.S. Sentencing Commission pursuant to 18 U.S. C. Section 3742, shall be given utmost priority.

5. The rates charged for transcripts produced by court reporters must conform to the current fee schedule which is listed at Local Rule 80.1.

6. The court's copy of a transcript is to be filed with the court within three (3) days from the date that the original transcript is delivered to the requesting party.

7. Transcript not delivered within the specified time periods prescribed by the court may be subject to fee discount provisions as follows in item (b) below.

a. Transcript ordered for district court purposes shall be delivered within thirty (30) days. If an extension of time is necessary, the court reporter shall request the extension of time through presiding judicial officer.

b. Transcript ordered for appeal purposes shall be delivered within thirty (30) days unless an extension of time for the delivery of transcript has been granted by the Clerk of the Court of Appeals in accordance with Rule 11(b) of the Rules of Appellate Procedure. Reporters who do not deliver transcripts within thirty (30) days may charge only 90% of the prescribed fee; reporters who do not deliver transcript within sixty (60) days may charge only 80% of the prescribed fee, unless a waiver of the sanction provisions has been granted by the Clerk of the Court of Appeals.

8. Reporters who are consistently delinquent in delivery of transcripts, filing of original notes and tapes, and/or submission of required reports, may be subject to the imposition of sanctions as determined by the court upon recommendation of the clerk.

9. Reporters who are found to be overcharging for transcripts by virtue of violations in page format, line format, or reduction in pitch, will be required to make immediate restitution.

10. Advance deposits: Upon receipt of a request for a transcript an estimate of charges will be furnished to the attorney/litigant, which, when paid, will serve as a deposit against final costs. Transcript preparation will not commence until the deposit is received by the court reporter or the CJA-24 is signed by the trial judge. Deposit checks will be made payable to the individual court reporter, who will prepare the transcript or who furnished the estimate of cost. For cases on appeal the deposit should be made promptly, but must be made not later than ten (10) days from the date the estimate is furnished.

11. Invoice preparation: The invoice accompanying the transcript will reflect deposits made, any necessary discount adjustments and either refund or balance due. An invoice reflecting a refund will be accompanied by a refund check in the appropriate amount.

a) This system will allow complete and speedy audit by the Clerk or the Clerk's designee of all court reporter transcript activities. Strict confidentiality of billing will be maintained.

b) Each invoice shall contain the following statement:

" I certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Signature_____."

F. Procedure for the Use and Payment of Contract or Per-Diem Reporters:

Contract or per-diem reporters in the Northern District of New York are paid by the United States District Court Clerk in the Syracuse Office. Whenever a contract or per-diem reporter is hired for a court proceeding, the court reporter who arranged for the contract or per-diem reporter shall complete the form prescribed by the clerk (attachment #2) and forward it with the invoice to the designated court reporter in Syracuse, N.Y. for review and entry into the contract / per-diem reporter log. The payment voucher and invoice shall then be forwarded to the attention of the budget clerk for payment processing. All invoices and vouchers shall be submitted to the Clerk for payment within (48) hours of receipt.

1. The designated supervising court reporter shall be responsible for overseeing the scheduling of contract or per-diem reporters and needs to be assured that each of the court's reporters is actually recording, or scheduled to record, proceedings in court or chambers before calling in a contract or per-diem reporter. When the court's regular complement of court reporters is insufficient to meet the needs of visiting judges, senior judges, magistrate judges, and other judicial officers, contract or per-diem court reporting services may be obtained. The supervising reporter shall take into consideration the travel costs for coverage as outlined in Section D(5) above.

2. Contract and per-diem reporters shall be utilized only pursuant to the policies and procedures of the Administrative Office of the United States Courts and Judicial Conference and 28 U.S.C. Section 753. The official court reporter at each division within the Northern District of New York is responsible for ascertaining that the contractor certifies the original notes and files them with the clerk of court, fulfills the Judicial Conference requirements for transcript format, properly bills the parties for transcripts, and produces transcript within the guidelines of the Judicial Conference and this management plan.

3. Contractual or per-diem services paid for by the courts may not be used to assist the court's reporters in the production of expedited, daily, or hourly transcript, not to replace the court's reporters to allow them to engage in transcript production or in private reporting work.

4. Where possible the use of electronic court recording equipment and operators shall be utilized to supplement the services of official court reporters.

5. Contract reporters shall file with the official court reporter a form of oath which will be supplied to them by the official court reporter. (see attachment 5)

G. Terminations, Staffing Reductions:

1. Reporters Serve at the Pleasure of the Court. Court reporters serve at the pleasure of the court en banc. The court may make changes in reporting staff at will, and without regard to seniority.

2. Death or Departure of Judge. Because court reporters are employed by the court en banc, a reporter should continue to be employed at the pleasure of the court en banc regardless of the death, resignation, or retirement of a judge.

3. Reduced Workload. Should it be necessary to reduce the reporting staff because of a reduced workload, and where reduction cannot be accomplished by voluntary or involuntary relocation, attrition, or reduction of one or more reporters to part-time status, the court en banc shall decide which reporter is to be terminated and reasonable notice of termination will be given, and the Administrative Office will be contacted to determine whether other districts might be seeking a staff reporter.

4. Transcript Responsibility After Severance. A reporter who has resigned or been terminated remains responsible for producing requested transcript from the period of employment at the rates in effect at the time the transcript was ordered.

I. Miscellaneous:

1. Court reporters shall not engage in private reporting work during their regular work week from 8:30 A.M. to 5:00 P.M. Monday through Friday of each week or utilize the facilities of the court to perform private work. Private work of any nature at all times should be subordinate to court work.

2. A reporter shall not use a substitute reporter without the prior approval of the Clerk or the judge to whom the reporter is assigned at that time. Substitutes when authorized should possess the qualifications of federal court reporters.

3. The marking, filing and storing of reporters' notes shall be in accordance with the note storage procedures approved by the this court as outlined in (attachment #4) of this plan.

4. Court reporters shall earn annual leave in accordance with the provisions of the Leave Act, Title 5, U.S.C.. Section 6301, et seq. Guidelines for the administration of leave are found in Chapter 3.00 of the Personnel, Policy and Orientation Manual of this district.

5. Annual performance appraisals will be conducted by the Clerk or the Clerk's designee for all official court reporters. The annual appraisal will assist the Clerk in determining court reporters' performance strengths and weaknesses and provide an opportunity to suggest methods of improving performance.

6. All official court reporters will submit to the Clerk or the Clerk's designee the names and qualifications of any typists or scopists employed to prepare transcript. These typists will be administered an oath of secrecy similar to the one given to court reporters, which oath will remain on file with the court reporters office. (see attachment #5)

7. All official court reporters shall submit all reports as prescribed in the court reporter manual Vol. VI Chap. XXII. Copies of reports to be filed with the Administrative Office shall also be provided to the Clerk or the Clerk's designee for review. Annual reports shall be provided to the Clerk and the Chief Judge.

J. Authority of the Clerk:

The Clerk shall administer this Plan on behalf of the court, and the Clerk is fully authorized and empowered to implement and carry out the terms of this Plan. The Clerk or the Clerk's designee on a day-to-day basis shall be responsible for the supervision of the work of the court reporters.

Any violation of this Plan shall be referred to the Chief Judge by the Clerk for appropriate action.

This plan supersedes the management plan which was filed in this district on December 23rd, 1988.

Duly adopted, approved and effective this 3rd day of December, 1993.

Thomas J. McAvoy - Chief District Judge

ATTACHMENT #1

EXCERPT

Transcript Definition and Limitation :

(Reference: Report of the Judicial Conference of the United States, October 1-4, 1946, page #12)

"Cost per page of transcripts that are charged by Official Court Reporters must not exceed those rates in effect at the time the order was made. A page of transcript shall consist of twenty five (25) lines written on paper 8-1/2 X 11 inches in size, prepared for binding on the left side, with 1-3/4 inch margin on the left side and 3/8 inch margin on the right side. Typing shall be ten (10) letters to the inch"

**FOR ADDITIONAL INFORMATION ON TRANSCRIPT FORMAT
PLEASE REFER TO VOL. VI CHAP. XVIII OF THE COURT
REPORTER MANUAL.**

**ATTACHMENT #2
UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF NEW YORK**

**PAYMENT VOUCHER
FOR
CONTRACT & PER-DIEM REPORTERS**

FROM (U.S. COURT REPORTER) : _____ **BOC: 2531**

DUTY STATION: _____ **INVOICE NO:** _____

DATE INVOICE RECEIVED: ____/____/____

PAYEE: _____

TELEPHONE NUMBER: (____)- _____

REPORTING SERVICES FOR JUDGE: _____

DATE(S): _____ **CITY:** _____

PROCEEDING(S): _____

REASON FOR CONTRACT / PER-DIEM REPORTER: _____

HALF DAY: _____ **(RATE)** _____ **FULL DAY:** _____ **(RATE)** _____

TOTAL DUE: _____

REVIEWED BY: _____ **DATE:** ____/____/____

ATTACHMENT #3

AO - FORM 436

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS
TAPE ORDER

Read Instructions on Back.

1. NAME		2. PHONE NUMBER		3. DATE	
4. MAILING ADDRESS		5. CITY		6. STATE	7. ZIP CODE
8. CASE NUMBER	9. CASE NAME		DATES OF PROCEEDINGS		
		10. FROM			11. TO
12. PRESIDING JUDICIAL OFFICIAL		LOCATION OF PROCEEDINGS			
		13. CITY			14. STATE
15. ORDER FOR					
<input type="checkbox"/> APPEAL		<input type="checkbox"/> CRIMINAL		<input type="checkbox"/> CRIMINAL JUSTICE ACT	
<input type="checkbox"/> NON-APPEAL		<input type="checkbox"/> CIVIL		<input type="checkbox"/> IN FORMA PAUPERIS	
				<input type="checkbox"/> BANKRUPTCY	
				<input type="checkbox"/> OTHER (Specify)	
16. TAPE REQUESTED (Specify portion(s) and date(s) of proceedings for which duplicate tape(s) are requested.)					
PORTIONS		DATE(S)		PORTION(S)	
<input type="checkbox"/> VOIR DIRE				<input type="checkbox"/> TESTIMONY (Specify Witness)	
<input type="checkbox"/> OPENING STATEMENT (Plaintiff)					
<input type="checkbox"/> OPENING STATEMENT (Defendant)					
<input type="checkbox"/> CLOSING ARGUMENT (Plaintiff)				<input type="checkbox"/> PRE-TRIAL PROCEEDINGS (Specify)	
<input type="checkbox"/> CLOSING ARGUMENT (Defendant)					
<input type="checkbox"/> OPINION OF COURT					
<input type="checkbox"/> JURY INSTRUCTIONS				<input type="checkbox"/> OTHER (Specify)	
<input type="checkbox"/> SENTENCING					
<input type="checkbox"/> BAIL HEARING					
17. ORDER					
<input type="checkbox"/> REFORMATTED DUPLICATE TAPE(S) FOR PLAYBACK ON A STANDARD CASSETTE RECORDER AT 1-7/8 INCHES PER SECOND		NO. TAPES		NO. COPIES	
<input type="checkbox"/> UNREFORMATTED DUPLICATE TAPE(S) FOR PLAYBACK ON A 4-TRACK CASSETTE RECORDER AT 1-7/8 INCHES PER SECOND					
<input type="checkbox"/> UNREFORMATTED DUPLICATE TAPE(S) FOR PLAYBACK ON A 4-TRACK CASSETTE RECORDER AT 15/16 INCHES PER SECOND					
CERTIFICATION (18. & 19.) By signing below, I certify that I will pay all charges (deposit plus additional) upon completion of the order.		ESTIMATE TOTAL			
18. SIGNATURE		19. DATE			
PROCESSED BY		PHONE NO.			
DATE		BY		DEPOSIT PAID	
ORDER RECEIVED					
DEPOSIT PAID				TOTAL CHARGES	
TAPE DUPLICATED				LESS DEPOSIT	
ORDERING PARTY NOTIFIED TO PICK UP TAPE				TOTAL REFUNDED	
PARTY RECEIVED TAPE				TOTAL DUE	

(All previous editions of this form are cancelled and should be destroyed.)

WHITE - COURT COPY

GREEN - ORDER RECEIPT

PINK - ORDER COPY

ATTACHMENT #4

PROCEDURES FOR STORAGE OF COURT REPORTERS' NOTES AND TAPES

All original notes and tapes are to be relegated to the Clerk of Court "within 90 days after the conclusion of the proceeding ... If transcript is ordered, the original shorthand notes or records should be submitted to the clerk of court within 90 days after the transcript is delivered to the requesting parties." (Court reporter manual Vol VI Chap. XXII)

Procedure for Storage of Original Notes

1. All notes are to be chronologically filed and placed in FRC boxes which can be obtained from the Clerk's Office.
2. The outside of the box should be marked with a label indicating the court reporter's name and the calendar year, month and dates of the notes contained within.
For example: "Jones - Box 85-1
January 1 to 31, 1993
(see attached AO. form #429)
3. If the notes for a particular month are too voluminous to be stored in one box, use as many boxes as necessary and identify them in sequence. E.g. , Box 85-1(a), Box 85-1 (b), etc. would all contain notes for January, 1993. Conversely, if the notes for a particular month do not fill one box, several months's notes may be stored in that box as long as it is identified as follows: Box 85-1, 85-2, 85-3.
4. Each packet of notes is to be certified and should include the case number, case caption, presiding judge, date of proceeding and court reporter's name.
5. Each box of notes must contain a Filing Certification Form for Original Notes, (see attached certification), accompanied by calendars which are to be attached to the notes for reference.

In order to maintain the security of the original notes, it is recommended that each reporter place his/her notes in packets on a daily basis and secure at the end of the day within his/her office.

Procedure for Storage of Original Tape Recordings

In accordance with 28 U.S.C. Section 753(b), court reporters are required to file with the Clerk of Court either a transcript or an electronic sound recording of all arraignments, pleas, sentences, and other proceedings required by court. Accordingly, all tape recordings of official proceedings are to be turned over to the Clerk or Court within 90 days after the conclusion of a proceeding. Each tape, or series of tapes if they pertain to one trial, must be accompanied by a Filing Certification Form for Tape Recordings (see attached certification).

**UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF NEW YORK**

FILING CERTIFICATION FORM FOR ORIGINAL NOTES

In accordance with 28 U.S.C. Section 753, I hereby certify that the original notes tendered herein for filing with the Clerk or Court are the full, true and correct notes taken during oral proceedings in the United States District Court for the Northern District of new York and includes, District, Magistrate and other official hearings held in said district. The daily calendars of proceedings shall be attached to the official notes for storage.

(Date)

(Signature)

FILING CERTIFICATION FORM FOR ORIGINAL TAPE RECORDINGS

CASE NO.

(SIGNATURE)

ATTACHMENT #5

FORM OF OATH FOR CONTRACT/PER-DIEM REPORTERS AND TYPISTS

I _____ do solemnly swear (affirm) that I will well and truly take and record the evidence about to be presented to this Court; That I will translate such testimony as required; And that I will keep secret all information received by me that has been placed under seal by the Court.

So help me God.
(Under the penalties of perjury)

Dated: ____/____/____

TO BE KEPT ON FILE BY THE U.S. COURT REPORTERS